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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

IN THE MATTER OF:

Environmental Protection Agency,

Complainant,

v.

Pacific Wood Treating Corporation,

Respondent.

RCRA Docket No. 1085-09-26-3008P

CONSENT AGREEMENT AND FINAL ORDER

A Complaint and Compliance Order was issued against the Respondent, Pacific Wood Treating Corporation ("PWT"), in this action, pursuant to Section 3008 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928, et seq. The Complaint and Compliance Order was issued on September 20, 1985, and alleged violations of RCRA and accompanying regulations, as adopted by the state of Washington.

In full and complete settlement of the matters alleged in the September 30, 1985 Complaint and Compliance Order, and

CONSENT AGREEMENT AND ORDER - Page 1



1 pursuant to 40 CFR § 22.18, the following Consent Agreement and
2 Final Order is agreed to by all parties, and entered against
3 Respondent Pacific Wood Treating Corporation.

4
5 I. FINDINGS OF FACT

6 1. Respondent owns and operates the Ridgefield Brick
7 and Tile land disposal site, located at 3510 N.W. 289th Street,
8 Ridgefield, Washington. The site is a hazardous waste landfill
9 consisting of approximately three quarters of an acre, on the
10 outskirts of Ridgefield, Washington. In this document, the site
11 will be referred to as the PWT/RBT facility or the landfill.

12
13 2. Respondent submitted a Part A hazardous waste permit
14 application for the PWT/RBT facility to EPA on May 25, 1983. The
15 application stated that hazardous waste disposed in the landfill
16 was ash from the PWT wood-waste boiler plant contaminated with
17 ash from incinerated hazardous waste K001 (bottom sediment sludge
18 from the treatment of wastewaters from woodpreserving processes
19 that use creosote and/or pentachlorophenol), and through system
20 upset D004 (arsenic). The hazardous waste was first received at
21 the landfill in 1979, and was last received on January 25, 1983.

22 3. The PWT/RBT facility is subject to the provisions
23 of RCRA, including the Hazardous and Solid Waste Amendments of 1984,
24 and the delegated state of Washington program, and to applicable
25 regulations found at WAC 173-303, including the interim status
26

standards found at WAC 173-303-400. Those standards incorporate by reference the interim status standards of 40 CFR Part 265, Subpart F through R.

4. Closure of the PWT/RBT facility was done by the Respondent between September 15, 1983 and January 16, 1984, under supervision of the Washington State Department of Ecology ("Ecology"), and pursuant to a closure plan submitted to Ecology by the Respondent. That closure did not provide for a groundwater monitoring system which met the requirements of 40 CFR Part 265, Subpart F for landfills. The plan also did not include provisions which addressed the regulatory requirements for post-closure care or post-closure financial assurance.

5. Leachate from the landfill, a hazardous and dangerous waste by definition, is discharged from the toe drain at the landfill. This waste is not managed in accordance with the generator requirements of 40 CFR Part 262.12(c), nor does Respondent have a permit to dispose of hazardous waste on site as required by 40 CFR § 270.1(c).

CONCLUSIONS OF LAW

6. Based upon the foregoing, Respondent is found to be in violation of the following federal regulations, which are incorporated by reference in WAC 173-303-400:

a. 40 CFR § 262.10(b), regarding recordkeeping, and/or the land disposal requirements of 40 CFR Parts 264, 265 or

1 270, regarding the management of leachate collected from the
2 landfill (see the comment following 40 CFR § 265.310(d)(2) regard-
3 ing the treatment of leachate);

4 b. 40 CFR §§ 265.90-94 and 265.310(b), which
5 requires any land disposal facility to maintain a groundwater
6 monitoring system in full compliance with 40 CFR Part 265, Subpart
7 F during the closure and post-closure period for a landfill;
8

9 c. 40 CFR § 265.145, which requires the establish-
10 ment of documents demonstrating compliance with the financial
11 assurance requirements for post-closure care of the landfill.
12

13 AGREEMENT

14 7. Respondent admits the jurisdictional allegations of
15 this Agreement, and admits the Findings of Fact and Conclusions
16 of Law contained in this Agreement.
17

18 8. Respondent acknowledges the issuance of the final
19 order attached to this Agreement, including the assessment of
20 civil penalties therein. Respondent further acknowledges that
21 any payment of any penalties pursuant to this Agreement and Final
22 Order does not relieve the Respondent from its legal duty to
23 comply with the requirements of the Final Order, nor would the
24 payment of penalties prevent the enforcement of the Compliance
25 Order Activities of this Final Order, nor would the payment of
26 the assessed penalties relieve it of its duty to comply with
27 applicable provisions of RCRA and applicable provisions of state

1 of Washington laws and regulations governing the disposal of
2 hazardous (dangerous) wastes.

3 9. Respondent waives any right to a hearing on, or
4 appeal from this Agreement and Final Order. However, the parties
5 recognize and agree that Respondent does not waive any rights it
6 may have with respect to future application of EPA or state regu-
7 lations outside of this Consent Agreement and Order.
8

9
10 DATED: 5 November 1986

Attorney

William D. Mann
For Respondent Pacific Wood
Treating Corporation

11
12
13 DATED: 10/30/86

D. Jerry Elsen *Attorney*
For Complainant Environmental
Protection Agency

14
15 FINAL ORDER

16
17 1. Based upon the foregoing Findings of Fact and
18 Conclusions of Law, which are incorporated herein by reference,
19 Respondent Pacific Wood Treating Corporation is hereby found in
20 violation of the regulatory provisions cited above in paragraph 6.
21

22 PENALTY ASSESSMENT

23 2. Respondent is assessed a civil penalty of fifteen
24 thousand dollars (\$15,000) for these violations. No interest
25 shall be charged on this amount.
26
27

1 3. The payment of the assessed penalty is suspended
2 and deferred to October 30, 1987, at which time they shall become
3 due and payable without further notice or proceedings UNLESS the
4 activities described in paragraphs 5 through 7 are performed
5 in a timely fashion. If the activities described in paragraphs 5
6 through 7 are performed in a timely fashion, the assessed penalty
7 shall be wholly excused automatically without further notice and
8 proceedings.

9 4. The assessed penalty shall become immediately due,
10 notwithstanding paragraph 3, if any of the described activities
11 do not occur on the dates described herein.
12

13 COMPLIANCE ORDER ACTIVITIES
14

15 5. Within thirty (30) days of the date of this Order,
16 Respondent shall submit documentation demonstrating the lawful
17 management and disposal of leachate collected from the landfill
18 known as the Ridgefield Brick and Tile Company (RBT landfill or
19 landfill). This documentation shall demonstrate full compliance
20 with 40 CFR Part 262 or 40 CFR § 261.5(g) through the establishment
21 of procedures and practices for the proper off-site disposal of
22 any leachate produced or collected from the landfill.

23 6. Within ninety (90) days from the date of this Order,
24 the Respondent shall demonstrate compliance with the financial
25 assurance requirements of 40 CFR Part 265, Subpart H, verifying
26 compliance with the post closure requirements for financial
27

1 assurance, or, if such compliance is impossible despite the best
2 efforts of the Respondent, shall submit appropriate financial
3 records and a proposed schedule for the establishment of a
4 trust fund to ensure compliance with the Subpart H regulations.
5

6 7. Within ninety (90) days of the date of this order,
7 the Respondent shall submit a 40 CFR Part 265, Subpart G closure
8 plan and schedule to EPA which shall address the installation of
9 a groundwater monitoring system at the landfill which is in
10 compliance with 40 CFR Part 265, Subpart F, and which would
11 provide sufficient hydrogeological information to satisfy the
12 requirements of 40 CFR § 270.14(c). This plan shall include
13 provisions which will ensure that the system shall be monitored
14 for all applicable parameters of 40 CFR §§ 265.92 and 93 and
15 pentachlorophenol and arsenic on a quarterly basis. The plan
16 shall also provide for a soil sampling plan to determine whether
17 any releases of hazardous or dangerous waste from the former
18 leachate collection system has occurred. This closure plan shall
19 be reviewed and approved by EPA and implemented by Respondent in
20 accordance with the procedures of 40 CFR Part 265.

21 GENERAL PROVISIONS
22

23 8. For each requirement described in paragraphs 5
24 through 7, the Respondent shall file a signed statement which
25 verifies the extent to which the conditions specified have or
26 have not been met or fulfilled. These signed statements shall be
27

1 mailed to EPA within two business days of the due date described
2 in the paragraphs.
3

4 9. By deferring penalties herein, the burden of
5 proving that payment of those penalties remains deferred and
6 suspended is hereby placed upon the Respondent.

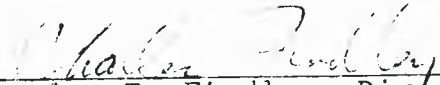
7 10. By written submission of a stipulation by both
8 parties, any date established in this Order may be modified.
9

10 11. All written submissions pursuant to this Order
11 shall be made to:

12 Kenneth Feigner, Chief
13 Waste Management Branch, M/S 533
14 Environmental Protection Agency
1200 Sixth Avenue
Seattle, Washington 98101

15 12. This Order shall terminate upon the approval of
16 a delisting petition by EPA at any time prior to the completion
17 of the Order's provisions.
18

19 IT IS SO ORDERED, this 21 day of November, 1986.

20
21 
22 Charles E. Findley, Director
23 Hazardous Waste Division
24 EPA Region 10
25
26
27
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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101

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November 26, 1986

REPLY TO
ATTN OF:

M/S 613

William D. Maer, Attorney
Heller, Ehrman, White & McAuliffe
4100 First Interstate Center
999 Third Avenue
Seattle, Washington 98104-4011

Re: Pacific Wood Treating Corporation
Docket No. 1085-09-26-3008P

Dear Mr. Maer:

Enclosed is a copy of the signed consent agreement and final order for this case. The original was filed with the Regional Hearing Clerk on November 24, 1986, and a copy was sent to Judge Nissen.

Please implement the agreement and order in strict accordance with the schedules as written. Any failure to implement the agreement will result in enforcement action, including assessment of the deferred penalties.

If you have further comments or questions on this matter, please telephone me at (206) 442-1191.

Sincerely,

D. Henry Elsen

D. Henry Elsen
Assistant Regional Counsel

Enclosure

cc (w/encl.): Judge Nissen

[illegible]